Aboriginal Affairs and Northern Development Canada
Affaires autochtones et Développement du Nord Canada

Creating the conditions for economic success on reserve lands

A report on the experiences of 25 First Nation communities

Canada

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Executive summary

This report is part of ongoing work at Aboriginal Affairs and Northern Development Canada to address the barriers to economic development on reserve lands. Its results will be used to inform next steps in partnership with First Nations to help create the conditions for economic success.

It is widely accepted that the *Indian Act* presents significant and persistent barriers to economic development on reserve lands. However, despite these barriers, some First Nations have successfully improved economic activity in their communities and leveraged their success in the pursuit of broader community development objectives.

Creating the Conditions for Economic Success on Reserve Lands summarizes and analyzes information drawn from first-person, on-the-ground accounts of Chiefs, Councils, elders, and other leaders from 25 such communities that have demonstrated a significant degree of success in advancing economic development. The information provided by these experts represents a rich body of evidence about the realities of economic development in First Nation communities – both what they consider the most effective factors for success, as well as where they have been hampered in their development efforts by barriers outside of their control.

The goal of this report is to inform strategies that other communities and the federal government can use to improve economic outcomes for Canada's First Nations. Its analysis is focused on two key areas: 1) Learning from the experiences of some First Nations communities in Canada that have achieved higher than average socio-economic well being, as well as understanding the barriers that have impeded, or continue to impede, their economic development efforts; and 2) Identifying strategies that First Nations and the Government of Canada can cultivate to enable more communities to successfully pursue economic growth.

Key findings

The conditions identified by participating First Nations leaders as contributing to positive economic outcomes are:

1) Having in place **rules and systems that work** so that community governance, land management, and other necessary elements of the day-to-day operation of community affairs are effective and efficient and create accountability, credibility, and fairness;

2) A high degree of control over **local decision-making**, which results in First Nations having the necessary autonomy and freedom to pursue their own goals, in their own way, and arises from timing and methods that make sense for the local conditions and for the goals and aspirations of their community;

3) A level of **community capacity** that results in community members having the abilities, skills, and sense of influence necessary to undertake change in their community; and

4) A sufficient base of **useable land** as part of the community's physical assets, which may include land appropriate for conventional economic development, land suitable for traditional pursuits, and land for community purposes such as housing and recreation.

Factors for success and barriers to economic development on reserve lands

The leaders interviewed for this study reported that they were able to take steps in their communities to implement these factors for success and to create the conditions for economic development. They cited key actions, including land-use planning; sound financial management; developing own-source revenues to reinvest in the community; building on their heritage and traditions; enrolling in available opt-in legislation for increased land management or property taxation powers; pursuing partnerships with investors and municipalities; and at times ignoring the *Indian Act* when it proved too burdensome.

Despite these communities' relative successes, they also pointed to barriers beyond their control that have impeded, or continue to impede, their efforts. These barriers include the requirements of the *Indian Act*; cumbersome bureaucratic processes related to AANDC's policies, procedures, and programs; deficits in community strength due to the legacy of historic policies on Aboriginal peoples; and under-resourcing of First Nations programs.

Finally, participants placed great value on a sufficient level of community capacity and a beneficial geographic location in contributing to their own economic development success. They also emphasized that different communities may choose different paths to economic development. As such, the steps outlined in this report may not be practical for all First Nation communities; the barriers outlined, however, may be common to a wider range of First Nations.

Next steps

Key findings from this report will be used to help inform ongoing efforts by the federal government, in partnership with First Nations, to enable all First Nation communities to progress economically. In particular, recommendations include:

1) Building on success by making it easier for more First Nations to take many of the steps towards economic development described by participants;

2) Removing entrenched barriers to economic development by addressing systemic issues that impede all First Nations from increasing the speed and magnitude of their economic development efforts; and,

3) Acknowledging the unique circumstances of individual communities, and developing flexible tools that meet the needs of communities with capacity challenges and communities located in less beneficial geographic areas.

Introduction

Creating the Conditions for Economic Success on Reserve Lands aims to illustrate an 'on-the-ground', practical perspective on the realities of achieving economic development on reserve lands, as told by the Chiefs, Councils, elders, and other leaders of 25 of Canada's more economically successful First Nation communities. The analysis contained in this report is drawn from interviews where these leaders shared their experiences, achievements, and frustrations regarding economic development with an interview team.

The information contained in this report will inform ongoing work that Aboriginal Affairs and Northern Development Canada (AANDC) is undertaking in partnership with First Nations to identify and pursue workable strategies to improve economic outcomes for Canada's First Nations. The analysis in this report is focused on two objectives:

> 1) To learn from those who lead economic development on reserve lands about the factors that they see as instrumental to economic success; about how they have worked to put these factors in place in their communities; and about barriers that have impeded, or continue to impede, their economic development efforts.
>
> 2) To gather recommendations from participants and identify other lessons learned, which will inform further efforts by First Nations and the Government of Canada to improve the speed and magnitude of economic development for all First Nation communities.

This report contains an analysis of over 300 pages of interview reports, which point towards four key factors for economic development for the participating bands:

- Rules and systems that work;
- Control over local decision-making;
- Sufficient community capacity; and
- A useable land base.

The participants provided numerous examples under each category of ways that their communities have worked towards positive economic outcomes, as well as ways that they have been – or continue to be – impeded by barriers beyond their control. The body of this report provides detail about the actions contributing to each element of economic success, as well as the barriers the participants experienced in their economic development efforts.

This report is intended for use by other First Nation communities, First Nation organizations, all levels of government, and other researchers as they continue to work together to improve the conditions for economic development on reserve lands.

Relevant literature[1]

A growing body of Canadian and international literature on Indigenous economic development informed the development of this research and the analysis of its results. Among other questions, this body of research asks why economic development takes root in some circumstances and not in others by investigating what factors tend to foster positive economic outcomes and what other factors impede it.

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[1] See, for example, The Harvard Project on American Indian Economic Development; The Report of the Royal Commission on Aboriginal Peoples (1996); A Hand Up, Not A Handout (Senate Standing Committee on Aboriginal Peoples, 2007); Status report of the Auditor General of Canada to the House of Commons – Chapter 4: Programs for First Nations on Reserves (Office of the Auditor General, 2011); Expanding Commercial Activity on Reserve Lands (Fiscal Realities, 1999).

Large-scale comparative research has shown that political factors – rather than purely economic factors, such as resource endowments or education levels – best predict economic success in Indigenous communities. While the details and the focus of various research pieces differ, there is a broad consensus that economic development in Indigenous communities requires:

- Meaningful **control over decisions** at the community level: Indigenous communities have better economic outcomes when they have genuine decision-making power – from constitution-making to law-making to policy – leading to accountability;
- **Effective institutions:** Institutions that create a stable environment for decisions to be made stimulate economic success on reserve lands, for instance through depoliticized dispute resolution mechanisms, through the effective management of resources and enterprises, and through skilled administration; and
- **Legitimacy:** Economic development progresses when communities experience a match between the institutions of governance and cultural beliefs within the First Nation community.

In the Canadian context, a number of reports and research initiatives led by government, by Aboriginal organizations and communities, by independent experts, and by the private sector have examined the persistent barriers to economic development in First Nation communities. It is well established in this body of literature that Canada's legislative and regulatory environment – especially the provisions and administration of the *Indian Act* and the resulting inconsistencies with off-reserve jurisdictions – poses one of the largest barriers to economic development on reserve lands.

Specifically, this legislative environment has the effect of preventing individuals and communities from relying on the same methods as their off-reserve neighbours to attract and capitalize upon economic opportunities. These methods include leveraging a secure land base, accessing capital, and attracting private-sector investment. Despite this restrictive environment, some First Nation communities have successfully undertaken economic development projects and made them profitable. Most importantly, these communities have used their economic successes to fuel action in the interest of their individual community's broad goals and aspirations.

Although broad barriers to economic development have been identified, less research to date has been conducted in Canada regarding the factors that have enabled the economic success of some First Nation communities; the obstacles that have prevented these communities from achieving even greater success; and the barriers that prevent other First Nation communities from achieving similar economic success. This report makes a contribution to the broader body of work on Indigenous economic development by outlining what successful First Nations view as key to their own economic success; by describing the inherent limitations of, and barriers to, implementing the actions they took; and by collecting participants' recommendations on steps that First Nations and the federal government can undertake to create the conditions for economic success.

Methods

This report draws on in-person interviews with First Nations leadership on the subject of their economic development efforts and the history of their lands and land use. 65 First Nations communities that have achieved higher than average socio-economic success

according to the Community Well-Being Index (CWBI)[2] were identified, and a representative sample of 33 First Nations agreed to be interviewed. Community leaders spent time with an interview team sharing their history and detailing their experiences in managing reserve lands to foster positive socio-economic outcomes. Interview participants provided perspectives on strategies for success, barriers to success that they faced, and their views on what changes would be necessary to address future challenges in developing their reserve lands. In most cases, the chief and several council members participated. In some cases, an economic development officer or members of elder councils were also present.

The interview reports totaled over 300 pages and contained a wealth of knowledge about an extensive range of factors for success and barriers to economic development on reserve lands – including participants' experiences with land management and extending to a number of other types of activities as well. Summary results from these interviews were presented in an interim report entitled the *Reserve Lands and First Nations Development Project*, and complete and rigorous analysis of the information provided by participants was subsequently undertaken using qualitative analysis software that generated codes and categories of information. The strength of this method lies in the fact that it does not require themes for analysis to be determined ahead of time; instead, themes arise out of and are based on the interview content, which results in a process where analysis is less biased by the research team's assumptions. In other words, this method allowed the stories and information from the interview reports to dictate the findings of the report. This approach is a widely accepted methodology in qualitative research and is well suited for use in instances where localized knowledge comes into play.

Participating First Nations reviewed and approved their interview reports and were sent a draft report for comment before broader circulation.[3] This final report is a product of both of these processes.

[2] The Community Well-being Index is a tool used to measure well being for application at the community level. It measures well being using census-based data in four categories: education, labour-force activity, income, and housing.
[3] 25 communities approved the use of their interview reports for the analysis in this report.

Factors in economic development success on reserve lands

The present report gathers information from some of the most economically successful First Nations across Canada and represents a rich body of knowledge and expertise drawn from leaders sharing their community's history, their community's current economic situation, and their experiences in identifying and pursing economic development opportunities to improve the well being of their communities. The participants' accounts of how they worked to improve economic outcomes in their communities – as well as barriers they faced that have impeded or continue to impede these efforts – contribute to a detailed yet wide-ranging picture of the realities of economic development on reserve lands.

The participants identified factors that were important to the economic development of their communities, and they provided detailed accounts of the steps they took to put these factors in place – for instance, setting up cash reserves to ensure that private-sector partners could be confident that bills would be paid; using own-source revenue to pursue developments that were either ineligible for federal programs or took too long to be funded through federal programs; and developing mentorship programs to nurture needed skills in their communities. At the same time, these leaders cited related factors, such as respecting the traditional use of lands and empowering community members, as important to economic development – demonstrating that, for these community leaders, economic development did not occur in a silo, but was rather part and parcel of the overall well being of their communities.

On the other hand, these leaders who helped to position their communities for economic success also emphasized that there are significant roadblocks for on-reserve communities pursuing economic development; woven throughout the interviews are references to, examples of, and complaints about the impact of working under barriers imposed by the *Indian Act*, dealing with AANDC's administrative requirements, and relying on federal funding to move forward with projects. As one participant put it, "It's different off reserve. The guy on the outside has all the options". Another participant explained, "Investors are used to dealing with municipal regulations and they are experienced business people, but they can't believe [AANDC's] rules". Participants succeeded largely by working around these barriers – but they were insistent that these barriers place on-reserve communities at a disadvantage and should not exist at all.

Analysis of the key elements that contributed to or hindered the economic success of participants' communities points to four broad factors necessary to foster economic development. Where these factors were strongly present or where participants had successfully worked to put them in place, positive economic and community development outcomes were reported. Conversely, where these factors were absent or deficient, negative impacts on economic and community development outcomes were reported. This section provides an overview of each factor and the steps that participants took to put them in place. The four factors are:

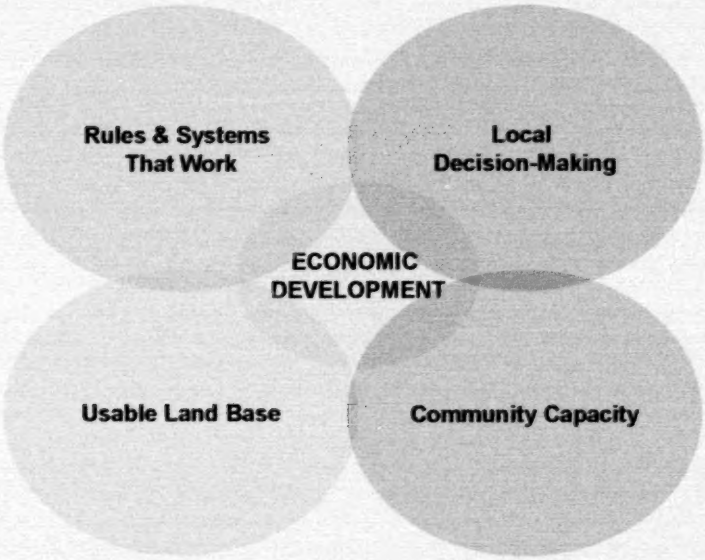
1. **Rules and systems that work** to shape community governance, land management, and other necessary systems for the day-to-day operation of community affairs in a way that is effective, efficient, accountable, credible, and fair;

2. A high degree of control over **local decision-making**, which results in First Nations having the necessary autonomy and freedom to pursue their own goals, in their own way, based on timing and methods that make sense for the local conditions;

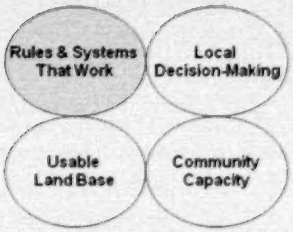
3. A level of **community capacity** that results in community members having the ability, skills, and sense of influence necessary to undertake change in their community; and

4. A good amount of **useable land** that becomes the base for the community in terms of physical assets. This may include land appropriate for conventional economic development, land suitable for traditional pursuits, and land for community purposes such as housing, recreation, and other uses.

Factors in economic development on reserve lands



Factor 1: Rules and systems that work



Throughout the interviews, leaders cited their own efforts to create functional rules and systems and described the ways in which they saw the broader system as broken. At the highest level, effective rules and systems create jurisdictional clarity to ensure that decision-making powers are located at the appropriate level of government. Clear rules and systems also help to ensure the effective governance of a band's affairs and land use; confirm legitimacy and accountability from all levels of government; and establish institutional frameworks and processes to guide effective decision making and implementation.

Participants gave specific examples to illustrate the ways that effective rules and systems helped to create an environment conducive to economic development in their communities. In particular, they cited mechanisms of governance that prioritize efficiency and transparency, such as reliable and predictable transfers of funds, timely processes, and reporting procedures that are not overly burdensome. Evidence from interview participants suggests that strategies do exist for putting these structures in place in their communities, but other important areas for improvement also need to be addressed to help First Nations further amplify their community and economic development outcomes.

Creating functional rules and systems

Community leaders described a range of ways that they ensured the clear, accountable, and predictable implementation of rules and systems in their communities. Generally speaking, these methods focused on the development and implementation of high standards for key areas of financial management, governance, and land use, including:

Financial planning and management

Our accountant put into place formal banking arrangements, monthly financial reports to Council, cheque requisitions, etc. As a result of these and other tools and procedures, we have had 18 years of unqualified annual audits, with budgets that were all either balanced or in the surplus. "There is an annual presentation of the audit to members and they pass a resolution approving it. Our people are proud to hear that we are financially sound".[4]

– Interview report

Financial planning was held to be an important and necessary precondition to achieving community development objectives in two ways: first, sound financial management increased a First Nation's credibility as a business partner; and, second, it allowed for the achievement of community development objectives through the sound management of revenue funds to plan and save for future community projects. Participants also commented on the value of investing funds (or re-investing profits) in economic development efforts, as opposed to per-capita distribution, for an enhanced ability to pursue economic development and job creation.

Good governance procedures

"Without good governance, you're going nowhere". Among other things, good governance means political stability, what kinds of laws you have and the availability of redress. "Without accountability and transparency, you have no credibility".

– Interview report

[4] Passages cited are direct quotations from the interview reports, which often reflect the input of multiple participants. Quotation marks are used only for statements which are attributable to a specific participant.

Good governance procedures (including band council operating procedures, the rules and procedures governing band elections, financial accountability rules, community by-laws, and management of conflict of interest) were also described as a necessary precondition to achieving positive economic development outcomes. Such procedures are viewed as important for ensuring that leadership is accountable to its membership, that the governance process is stable, and that there is a healthy separation between politics and the administration of a band's affairs. Reference was specifically made to the need for longer electoral cycles and the need for changes in voting thresholds to increase the functionality of governance procedures on reserve.

Land-use planning

The Whitecap Dakota First Nation turned a corner and started talking about economic development. The first thing they did was hire a professional land planner to do a land-use plan, identifying the highest and best use for every part of the reserve.

– Interview report

Economic development was found to be facilitated by good land-use planning and procedures. Interviewees recommended having a land-use plan in place and doing community planning in advance of development opportunities to secure a number of benefits for the community, including making sure that land is developed to its highest and best use; that community design is coherent and meets long-term community objectives; that further development is able to proceed efficiently and links in with existing infrastructure, such as water and sewer service pipes; and, finally, that land use also results in the protection and preservation of culturally significant lands. Broadly speaking, the discussion on land-use planning centred on ensuring that the development being pursued in the present did not preclude or limit potential land uses in the future; that qualified human resources were available to manage the process; and that the community was involved in and supported the decision-making procedures.

Barriers to creating functional rules and systems

Participants emphasized that, despite efforts they had made to implement functional rules and systems through improving financial management, governance, and land-use planning, they remained largely limited in the broader context. They specifically identified that they are required, because of the *Indian Act* as well as because of other federal regulatory and legislative systems, to use systems that they argue function at less than optimal efficiency and create administrative inefficiencies. They described these inefficiencies as barriers to creating stable and credible systems to govern community life and, as such, inhibitors of economic development. Specific barriers that emerged through these discussions include:

Fiduciary responsibility

Fiduciary has a role, but the fiduciary blanket can be suffocating.

– Interview report

While participants noted that the Government of Canada's fiduciary responsibility had a role to play in assisting First Nations achieve their development goals, they also argued that the current application of the concept of fiduciary was acting as an inhibiting factor by creating additional liability, which the government then seeks to limit, often resulting in additional bureaucratic requirements and complexity.

Surveying

As well as cutting funding [for surveys], the Kitigan Zibi Abishinabeg First Nation reported that "[AANDC] set the bar so high [for surveys] that it costs a lot of money to do surveys

[and] what triggers [the need for] a survey on reserve [lands does not] compare to the situation off reserve.... [Surveys on reserve] often cost two to three times what the land is worth, which becomes a hindrance to doing anything with the land".

– Interview report

Participants reported that surveying processes on reserve lands are significantly more involved and cost more than land surveys off reserve. In addition, they noted there is insufficient funding for surveys on reserve lands and that survey funding had already been cut from previous levels. The complexity, cost, and lack of supporting funding were all reported as constituting barriers to economic development. Interviewees noted examples of surveys costing more than the value of the land; land transfers being held up due to lack of funds to undertake a survey; and a compromised parcel fabric index due to incomplete surveys on land transfers that had taken place.

<u>Slow processes</u>

We need AANDC to enable business decisions to be made in the time that business needs them to be made. For example, our proposal to lease reserve land to put up billboards took 26 months to go through AANDC's regional and national decision-making process. During that time, three different companies were waiting to create the opportunities that we knew existed.

– Interview report

> *"[AANDC] processes take far, far too long and time is of the essence for economic development".*
>
> *– Interview report*

Participants identified that slow processes had a significant and detrimental effect on economic development. Of particular note is the sharp difference between the 'speed of business' and the 'speed of government'. Participants described bureaucratic processes that acted as limiting factors and noted that they watched development opportunities pass them by as they were waiting for funding or project approval from AANDC.

<u>Under funding</u>

"[AANDC] does not give us enough money to pay our staff, so we have to use our own-source revenues [in order] to recruit, retain, and ensure the growth and development of our staff and our community".

– Interview report

Under funding of both salaries and capital costs was identified as an issue by interviewees. Interviewees noted that devolved responsibilities often did not come with funding to adequately provide needed services for their communities. They also noted infrastructure maintenance and upgrading needs that were not met due to inadequate funding. Finally, population-based funding formulas and project-based funding, which would be better allocated as core funding, were identified as challenges.

<u>Programs that lack client focus or that are poorly administered</u>

You need to simplify all AANDC processes that have anything to do with land, including the [Additions to Reserve] process. Streamline them; make them more geared to move at a quicker pace. Make them responsive to First Nations' needs. There cannot be a cookie-cutter approach. The biggest hindrance to all business proponents is timelines. The potential is there but it's too complex for no good reason.

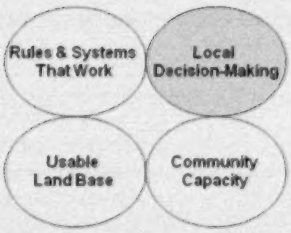
– Interview report

Participants were concerned that programs administered by federal agencies (mostly AANDC) are often designed to conform to government requirements for process and

accountability at the expense of a client-centred focus. Numerous examples were given of how this acted as an impediment to economic development on-reserve. In addition, examples of poor administration of programs were given, much of which were related to the staff turnover rate at AANDC.

Factor 2: Local decision making

Another thread in participants' comments was that local decision making helped to enable their pursuit of development on reserve lands. This is corroborated by the Harvard Project's conclusion that "[w]here tribes make their own decisions about what approaches to take and what resources to develop, they consistently out-perform outside decision-makers".[5]



The importance of this general principle is recognized broadly in the Canadian context – in most jurisdictions, local decisions are delegated to local decision makers through the provincial-municipal system. To a large extent, this is missing in the First Nations context, as much of what happens on reserve lands is governed by the *Indian Act* and administered by distant government offices. The experiences of the leaders participating in this report illustrate that the current administrative structure does not make use of local knowledge and accountability that First Nations' leadership can use to create solutions for issues on their reserves – but their experiences also illustrate that strategies do exist to work around this barrier.

Strengthening local decision making

Participants described a wide range of strategies undertaken to strengthen their ability to pursue projects that they deemed to be priorities. These ranged from making use of available tools (e.g. property taxation and other own-source revenues) to ignoring the more restrictive provisions of the *Indian Act* that impeded economic development when they determined that the benefits outweighed the risks. Specific sub-factors of this category include:

Own-source revenues

Own-source revenue dollars coming in enabled the Band to do things that it couldn't have done only with [AANDC] funds, like health, education, recreation and some infrastructure, especially housing. Own-source revenue doesn't include money from [certain] leases, because Akisqnuk has to ask [AANDC] for it, but includes things like forestry and the campground leases, from which revenues flow directly to the Band.

– Interview report

Generating own-source revenues was described as a useful tool for allowing communities to pursue economic development on their own terms. Participants identified a range of strategies to generate own-source revenues, in particular property taxation and leasing. Other sources mentioned included Impact Benefit Agreements, gaming, sales taxes, and resource revenue sharing agreements.

> *[Property taxation] has been extremely beneficial by creating an ongoing revenue stream and launching the virtuous circle of taxation: tax revenues lead to infrastructure investments, which lead to more development, which leads to more tax revenues...*
>
> *– Interview report*

Own-source revenue was especially valued by participants for the speed at which it could be accessed and used in comparison with government funding. In addition, own-source

[5] Jorgensen, M., & Taylor, J. B. (2000). "What determines Indian economic success? Evidence from tribal and individual Indian enterprises". (John F. Kennedy School of Government and Harvard University). Available from The Harvard Project on American Indian Economic Development. Retrieved from http://hpaied.org/images/resources/publibrary/PRS00-3.pdf

revenues do not come with pre-determined criteria, as do government funding envelopes, and, as such, they can be put to a much wider variety of uses. Interviewees commented that they were able to fund programs not covered by federal funding, such as cultural programs, and they also enjoyed the greater flexibility of own-source revenue to expand the possibilities for multi-use, evolving infrastructure – for instance, one community initially merged a daycare with a development corporation to make best use of space, but, after the childcare centre was rated among the top ten in the province, the development corporation moved to allow for the expansion of the centre.

Building relationships

Large contractors in the area had bad previous experiences with other First Nations, so Millbrook First Nation's Economic Development Committee deposited $500,000 in a solicitor's trust account that was available to contractors if a bill was not paid when due. "We only had to do that once", said [one participant]. "We pay our bills before they're due, because we normally get a 2% discount for doing that. We created confidence and stability, not just for ourselves but for other First Nations too. Business is business, we tell our partners: you have a contract and it will be honoured".

– Interview report

> *"We don't work in isolation...To move things forward, you have to work with those around you".*
>
> – Interview report

Participants noted the value of developing relationships at all levels of government (federal, provincial, and municipal) as well as with private-sector partners (including tenants, leaseholders, and corporations) to achieve economic development success. They identified both formal and informal partnerships as playing an important role in economic development: for example, going above and beyond business requirements to establish a good reputation and foster positive relationships with potential investors, or working to build relationships with municipalities to share infrastructure and services. However, it was noted by participants that having a high degree of local decision-making power was an important precondition to building successful relationships. Without adequate authority to make decisions locally, participants reported that potential partners were less likely to see the First Nation as having the credibility and accountability to be considered an attractive economic partner.

Working outside the *Indian Act* by ignoring its provisions

"If we started a red-tape factory, [AANDC] could keep us in business forever. For example, we wanted a water treatment plant exclusively for our members and it took ten years to get [AANDC] approval. We wanted a gravel extraction plant and it took two years for AANDC approval. If we had just gone ahead and done it ourselves, we would have paid a $50 fine, so it's not worth the time and trouble of going through [AANDC]".

– Interview report

> *Generate your own revenues and get out of the* Indian Act. *When you have your own revenues, you have your own self-government. Forget about negotiations, just do it. It's easier to ask forgiveness than permission.*
>
> *– Interview report*

Some participants admitted to simply ignoring the provisions of the *Indian Act* when they proved too burdensome or perverse, and they confirmed that strategically disregarding certain provisions allowed them to avoid inherent delays in working within the system, helped them to maneuver around illogical restrictions on their activities, and made for greater freedom in pursuing their objectives. Alternative means of escaping the *Indian Act* were also mentioned (e.g. self-government, opt-in legislation), but when these were not in place or were not accessible, some participants were prepared to work outside the *Indian Act* on their own terms. Choosing this path was framed as a cost-benefit decision, weighing

the risks of doing something that AANDC deemed illegal against the potential benefits of proceeding, such as fewer missed opportunities.

Working outside the *Indian Act* by pursuing self-government

The [self-government] Treaty also removed about half of the new Tsawwassen First Nation Treaty Settlement Lands from the BC Agricultural Land Reserve (ALR) designation that had previously encumbered these lands.... "Provincial removal of these lands from the ALR designation was a game changer, because all our land is [Certificates of Possession] (CP) and the Province wanted to give us only farm land that we could only farm, which would really hamstring our economic development opportunities by limiting the use of the land to agriculture and a short list of other permitted uses, like drainage and greenhouses". The ALR designation removal was therefore as important as access to municipal water in terms of unleashing the potential of the land.

– Interview report

Interviewees commented on the value of self-government agreements as a tool for greater independence. Participants whose community had entered self-government indicated that these agreements had a positive impact on their First Nation; a number of others indicated that they were working towards self-government by assuming increased responsibility in a number of areas, with an end goal of achieving greater autonomy and control over their own affairs.

Working outside the *Indian Act* by using available opt-in legislation

Either investigate or contemplate the possibility of moving out from under the Indian Act *and developing your own laws on First Nation land. You can negotiate with the Canadian government on what part of the* Indian Act *you want to move out from under, because the Canadian government sees First Nations as capable of moving out from under that control and setting up their own futures. [The* First Nations Land Management Act*] is an example of how to do this, and a key factor is stepping back and looking at the potential.*

– Interview report

A number of participants identified available opt-in legislation as offering practical, incremental strategies for removing their community from problems associated with the *Indian Act* and for increasing local control in certain areas. Overall, participants in these regimes reported that the opt-in legislation had contributed to successful economic outcomes, although there was also mention of issues such as delays, difficulties with enrolling, or the risk of increased liabilities to First Nations. Opt-in legislation that the participants described as useful included:

First Nations Land Management Act (FNLMA)

The Indian Act *is "an archaic piece of legislation.* FNLM *eliminates 25% of it and gives you self-government over your land, so that made it very attractive to us....* FNLM *has done wonders: it has opened up an economy and given our people opportunities to become contributing members of our community. It's [been] an important part of our whole empowerment strategy of breaking the cycle of dependency".*

– Interview report

The *FNLMA* regime was identified as an effective strategy for removing First Nations from the restrictive land management provisions of the *Indian Act*, for providing them with additional tools for community-based decision making, and for helping them to achieve greater legitimacy and accountability. On the other hand, some problematic issues were cited, including the risk of increased liability to First Nations,

a lack of Environmental Management Agreements under *FNLMA*, and problems with transitioning from the *Indian Act* to the *FNLMA* regime. Overall, however, participants who were already active under *FNLMA* spoke about its positive effects in opening up economic opportunities. Others indicated that they were waiting to join *FNLMA* once the regime had additional funding, as they felt it would have positive outcomes for their community.

First Nations Fiscal Management Act (FNFMA – formerly the First Nations Fiscal and Statistical Management Act)

[The FNFMA *and the property taxation and property assessment laws that Songhees First Nation developed under the* FNFMA*] have provided greater taxpayer certainty, stronger enforcement provisions and participation in the BC Home Owner Grant program....*

The Nation's objectives for all these laws are: i) getting jurisdiction and control over its own destiny by generating its own revenue and moving toward self-government; and, ii) generating economic development by demonstrating to investors and developers that Songhees is a good place to invest, by showing that its financial standards and tax laws on reserve are comparable to those off reserve (which is more true of the new tax law than it was of the old one).

– Interview report

The *FNFMA* is an opt-in legislation that provides participating First Nations with the authority to develop strengthened real property tax and financial management systems and to gain access to capital markets in a manner similar to those available to other local governments.

Interviewees who had enrolled in this act were using it, or intended to use it, for a variety of purposes. Some spoke of developing real property assessment and taxation bylaws – or of transitioning from previous property taxation regimes under Section 83 of the *Indian Act* to the *FNFMA* regime – as a key step in their economic development efforts. Participants also mentioned that *FNFMA* was a valuable tool that allows for flexible and efficient expenditures of property taxation revenues and for implementing financial administration and taxpayer representation bylaws. Additionally, participants spoke of its promise in providing access to capital markets in order to finance initiatives such as public infrastructure projects.

First Nations Commercial and Industrial Development Act (FNCIDA)

FNCIDA allows First Nations to pursue large-scale commercial and industrial projects on reserve lands by developing federal regulations that close gaps between on- and off-reserve regulations for comparable activities.

As only two participating First Nations were pursuing regulatory reform under *FNCIDA*, it was not frequently mentioned by interviewees. However, the two First Nations participating in *FNCIDA* both identified themselves as proponents of the legislation. *FNCIDA* was used as an example of positive cooperation between different orders of government and as a strategy that, alongside *FNLMA* and *FNFMA*, could be used to develop tools outside of the *Indian Act*.

Barriers to strengthening local decision making

A low degree of control over local decision making, which results in First Nations lacking the necessary autonomy and freedom to pursue their goals in a way that makes sense for the local conditions and aspirations of their community, was reported to have a negative impact on economic development. Barriers to local decision making stemmed from a few key sources, namely lack of control over finances, legislative barriers, and jurisdictional issues. Participating leaders reported impediments to taking on greater responsibility due to the following barriers:

Access to capital

We need to have the same ability to access the bond market if we meet the criteria to do so. We have 50 to 70 year assets, "but we have to pay them off after 12 years because that is what our lenders demand. This creates a cash flow issue and those funds could be better used for other purposes. This disproportionately crowds out our revenue streams". While the First Nations Finance Authority sounds like it offers a potential solution, we can't wait that long while it is implemented.

– Interview report

Interviewees commented on challenges in accessing capital and financing, such as being rejected for financing by mainstream lenders; paying higher interest rates than other borrowers due to the "unmortgageability" of reserve lands and other perceived risks by lenders; and the lack of access to debt financing such as that available to municipalities. One participant noted that, without access to capital through capital markets, the community was at risk of becoming landlords to private businesses rather than owners of developments, and thus "land rich and cash poor". Participants reported that a lack of access to capital hindered their efforts at economic development and they linked these issues to the broader issues of lack of local control that First Nations experience: without the required capital and the freedom to spend it according to their priorities, communities could not pursue projects or deliver services necessary for economic development. They also noted that lack of access to financing posed a challenge at an individual level with regards to financing home ownership and small business start-up funding.

The *Indian Act*, AANDC, and legacy of treaties with Canada

"The Indian Act *maps out how we are supposed to live our lives, like the expectation that we will be farmers or fisherman or forestry workers. It doesn't take into consideration that we'll be lawyers or doctors or operate businesses. The* Indian Act *in general is one of the biggest detriments to the progress and success of a First Nation".*

– Interview report

"Imagine a ladder.... The federal government is on the top rung, the provincial government is one rung below the federal government, and the municipal government is one rung below the provincial government. The municipal government has its authorities and jurisdiction under the Municipalities Act, *but First Nations only have the* Indian Act, *which is economic suicide, pure and simple".*

– Interview report

The *Indian Act* and its administration at AANDC were noted as a significant source of challenges for First Nations. Numerous references were made to the overarching lack of control that First Nations have as a result of the *Indian Act*, as well as to inefficient bureaucratic processes associated with its implementation. Extensive examples illustrate how the *Indian Act* impacts almost every aspect of day-to-day life within communities governed by its provisions, including resource development; the judicial system; restrictions on mortgaging reserve lands; forced enfranchisement; the pass system; location tickets and certificates of possession; and the historical loss of status faced

by First Nations women who had married non-First Nations men. References were also made to the legacy of inequities perpetuated through treaties.

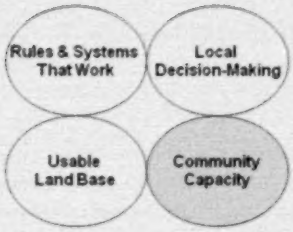
Jurisdictional issues

For two years the federal government stopped the First Nation from converting the Provincial Sales Tax to a Buffalo Point First Nation Sales Tax, despite the province being willing to negotiate on the issue, "so the feds speak out of both sides of their mouth: they say they won't intervene in provincial jurisdiction over gaming, but they do so for the sales tax. So they're picking and choosing. It's always the same game, just another means of preventing First Nations from moving forward".

– Interview report

Jurisdictional issues were cited as a significant barrier to First Nations in pursuing economic development on their reserve lands. The majority of jurisdictional issues arose from the federal government's incomplete (and in many cases, less effective) efforts to address legislative and regulatory issues on reserve lands that provinces are responsible for in the off-reserve context. Specific jurisdictional issues were mentioned in the areas of policing, natural resources, Crown Corporations, taxation, and others, and were cited as a source of conflict with other orders of government.

Factor 3: Community capacity



Participants stressed that developing community capacity was a key factor in their communities' economic development outcomes: a high level of community capacity signals that the community as a whole has among its membership the skills necessary to manage their own affairs and effect change in their community. When community members have a strong source of pride in their culture, a base of education and skills, and good leadership, they are more likely to see themselves as potential agents of change and believe in change as a realistic possibility.

Strengthening community capacity

Participants linked the development of community capacity with positive economic outcomes and described several contributing elements for creating a strong community. Specific components include:

Community pride and empowerment

Independence – this is the key to the begging that the Indian Act *forces on First Nations. [One participant] recalls that in the early days "some First Nations didn't like rations and the idea of being supported by anyone else. That has been lost. We need to get it back... and we are 80 percent there".*

– Interview report

Community pride and empowerment were identified as important factors by a variety of interviewees. Participants emphasized that community pride influenced whether community members were willing to undertake efforts to promote change in their community – as well as community members' sense of empowerment and efficacy more broadly. Participants recounted that First Nations leadership can take important steps to promote member involvement in community life, thereby increasing community empowerment. Specific strategies towards this end included actions to make chief and council directly and visibly accountable to their membership; interviewees mentioned initiatives such as encouraging community-driven planning processes, holding open band meetings, and having youth participate in meetings with federal agencies.

Educated and skilled community members

People who had been studying and working off reserve came back and put their skills in the service of the nation. These people had been on Council before and had both a corporate memory of where the nation was coming from and a clear understanding of where it wanted to go. It allowed the nation to create a new history, slowly but patiently.

– Interview report

Participants saw educated and skilled community members as important assets who make important contributions to the First Nation, especially if they live on reserve. Interviewees noted both that educated and skilled community members contribute the necessary talents to build band governance and management and that positive outcomes have resulted from educated members returning to the band.

Maintain traditions

"Culture helps [us] determine what type of development will go forward on reserve. The ultimate goal is not just the dollar. We want a healthy community – spiritually, emotionally and physically".

– Interview report

Interviewees commented on the importance of considering both cultural needs and economic development needs in concert to ensure an outcome that reflects a community's core values and identity. They also described the ways in which maintaining cultural values and traditions strengthen a community.

Good leadership

The Indian Agent left and a First Nation member was appointed as administrator and took over management and administration. Things started to improve as a result, after very little improvement for almost a hundred years.

– Interview report

The importance of having local leadership, recognizing the value of traditional leadership forms, and maintaining credible and consistent leadership were described as elements of good leadership. The value of consistent leadership over a longer period was specifically noted; participants provided many examples of effective chiefs who had been in office for long periods of time – some in the range of 20 or 30 years.

Adequate funding to hire professional staff

"First Nations are in remedial management because they can only hire a clerk [to do a job that requires more training and skills] and you get what you pay for. [They are] limping along because their financial resources are inadequate, so they have no professional capacity, [and, as a result], they have inadequate reporting. How can you make good decisions without good financial information?"

– Interview report

Interviewees identified that a certain level of skills and expertise are necessary to successfully run a First Nation's affairs and that adequate funding to hire professional staff (or services) is an important element in economic development success. They reported that current funding levels are often insufficient and that communities often top up funding with own-source revenues to ensure administrative success. Participants noted several important areas of expertise, including legal, financial, and land management.

Barriers to strengthening community capacity

Despite local efforts to strengthen community capacity, participants often reported that their communities were still struggling with eroded community capacity, often as a result of historic policies and other factors outside their control. They linked an eroded base of community capacity to a reduced potential for a community to pursue development and provided examples of barriers, such as:

The legacy of residential schools

Over time, the residential schools led to loss of knowledge of the land. In the 1930s all the children, representing 50 percent of the population, were gone ten months out of the year, so knowledge of the use of land was limited to the two summer months. All of this amounted to a "cultural holocaust. Can you imagine a village with no children?"

– Interview report

The legacy of residential schools was described as continuing to have a negative impact on community well-being and, as such, a negative impact on communities' economic development capacity.

Loss of traditions

"Everybody younger than 40... in [our community] is in a different category.... In our day, we didn't give you a fish; we taught you how to fish. We didn't give you a canoe; we taught you how to make a canoe. Federal funding changed all that. For example, now we have to pay people to take care of their ailing parents".

– Interview report

Similarly, the loss of traditions was noted as having a negative impact on community well-being, and cultural traditions were identified as having a significant connection to economic development. Interviewees described a loss of traditions as leading to a decline in social well-being in the community, as well as a decline in the traditional economy – due in part to *Indian Act* policies and in part to the decline in natural resources used for subsistence and traditional activities caused by over-exploitation, often through commercial harvesting activities.

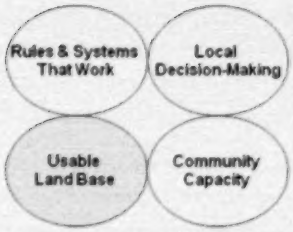
Racism

Before Tsawwassen First Nation broke ground on the condo development, on Canada Day in 1995, a bus full of privileged white people, mostly from Delta, staged a protest on the reserve, brandishing signs that said 'Save the Heron' and 'No more handouts to Indians'.

– Interview report

The impacts of racism were described as pervasive even today. Interviewees described how racism directly affects a community's capacity to engage in economic development opportunities. Several dramatic examples of such racism were given, including boycotts of First Nations development efforts or other disruptive actions taken by nearby non-native communities.

Factor 4: Useable land base



The communities participating in this project indicated that the land base under their control is a highly significant factor in the pursuit of economic development. The ability to put land to its best and highest use was essential to community success and problems with doing so were reported as one of the main barriers to economic development on reserve.

A note about reserve location: Because the location of reserves was highlighted by community leaders as a key to their success, it is important to acknowledge that location is largely outside of community control; moreover, it is outside of the control of other communities that do not happen to have the same advantage. As one participant put it, "Our reserve is highly commercial, adjacent to downtown and on a major commuter route; if we were up north, we wouldn't have 2,600 people wanting to live here".

Specifically, the location of the reserve was seen as advantageous by interviewees either when it was: a) in close proximity to transit ways, close to urban centres, or otherwise located near a market that it could exploit for economic development purposes; or, b) located on or encompassing traditional territory allowing community members to continue traditional pursuits and/or to enjoy ecosystem services that provide food or other materials of value. Conversely, other participants noted the challenges of pursuing economic development on land located in areas that were "mostly rocks and swamp", i.e. of poor quality.

As a result, First Nations with a poor land base – due to the land's lack of utility for community or economic development purposes, too small a land base, or land that is very remote or underserviced in terms of infrastructure – have fewer assets to leverage in their development efforts, and may consequently have more difficulty increasing the usability of their land base in ways that worked for the leaders interviewed for this report.

Increasing the usability of the land base

Participants reported that effective land-management strategies and land-use planning (outlined in more detail in the "rules and systems" section of this report) contributed to making the best use of the reserve land base, and also contributed to an environment in which the rules and systems function well. Specific examples given by participants of ways to leverage the land base for economic development include:

> *A land-use plan for the nation's traditional territory has been developed. It identifies four types of land-use zones, including forest stewardship zones, sensitive areas, restoration areas, and wild spirit areas. Building on the work of the family dinner meetings, this planning process considered Squamish member community need, potential long-term economic development, and environmental protection. It considered how vacant areas might be developed and if these areas should be devoted to community use or to revenue generation.*
>
> *– Interview report*

<u>Adding to the land base available for community use through Additions to Reserve, fee-simple arrangements, or buying back Certificates of Possession (CPs) from members</u>

The reserve's land base roughly doubled as a result of an addition to reserve that had been started shortly after Bill C-31 *[changed status and membership rights and] created the need for an expanded land base. It had taken 12 years to get it done.*

– Interview report

Participants reported that acquiring additional lands of strategic value to the First Nation had significant potential for leveraging positive economic outcomes. However, discussion of this possibility was often coupled with descriptions of the challenges and delays in doing so, particularly with respect to the Additions to Reserve process.

Some First Nations indicated that they had acquired lands and put them through the formal Additions to Reserve process. Others indicated that, while they had acquired lands, the band chose to keep them in fee-simple ownership to allow for greater flexibility in terms of economic development activities. Various other uses were identified for the acquired lands beyond conventional economic development purposes, including preserving traditional lands from development, preserving land for ecosystem services or environmental protection, and preserving lands for community use.

Other participating First Nations also identified that pursuing specific claims and self-government agreements, or buying back CP lands from CP holders to get a usable land base under band control, were useful strategies to increase the usability of the land base for the purpose intended by the band.

Community and traditional lands

"We have a thousand different stories, whether it was a place to graze cows or sacred spiritual grounds, but everybody agrees you don't build there and that it's land for common use, with respect".

– Interview report

Common or community lands that were used for traditional purposes were found to be important. Interviewees commented on the importance of setting aside lands that had meaning to the community as a means of contributing to culture and spirituality as well as to community strength.

Developing infrastructure through own-source revenues and partnerships

Once you have marketable land, you need infrastructure, i.e. water and sewer, three-phase electrical power, gas, roads and telecommunications, including high speed internet.

– Interview report

Infrastructure was identified as a highly significant enabling factor to unlock the economic development potential of land, as well as to increase the quality of community life. Without infrastructure to support accessing or leveraging resources, the value of the land remains unavailable. In particular, adequate road systems, three-phase electric power, and telecommunications infrastructure including broad-band internet service were noted as important for economic development.

Own-source revenues and partnerships with nearby municipalities for shared services and infrastructure were strategies that some participants utilized to develop and implement required infrastructure.

Barriers to increasing the usability of the land base

Economic development was reported to be negatively impacted by a deficit of useable land, and participants reported impediments to their efforts to unlock the potential of existing lands. Specific examples of challenges that First Nations encounter that negatively impact the usability of their land base include:

Poor or unusable reserve lands

The Chilliwack city dump is next to the southeast corner of Tzeachten First Nation's reserve, which stinks and limits possible land uses. The dump also has contaminated groundwater in the area of the sports field which means that [the water] can be used to irrigate, but not for domestic purposes. In addition, Chilliwack's storm water drainage has increased and rendered a good part of the southeast corner of the reserve soggy and unworkable, which takes about 10 acres away from potential economic use.

– Interview report

Participants noted that problems with reserve lands significantly hindered development. Interviewees mentioned issues with contaminated or poor quality lands (e.g. swamp not suitable for agriculture); reserve land bases that had decreased in size due to land removals or expropriations; or land that was rendered less useful due to poor community design and planning (e.g. a reserve cut in half by a highway). These factors diminished options for successful economic and community development.

Certificates of Possession

Implemented by certificates of possession, this system is also the principal source of internal conflict, corruption, and power-based families and politics among First Nations and is contrary to the traditions of not owning lands as individuals.

– Interview report

CPs present leaders on reserve lands with a variety of challenges. The challenges that participants identified regarding CPs ranged in theme: CPs often tie up much of the best parts of reserve land and make it unavailable for other development purposes; CPs cut up the reserve land fabric in difficult ways; and CPs counter the 'community spirit' that First Nations leaders are striving to foster. Buying back CPs from community members was identified as a strategy to counter these issues.

Lack of infrastructure funding programs

Pikwàkanagàn has no high speed internet connection, nor does it have a three-phase power line, so it can't bring in industry. This is despite the fact that a major three-phase power transmission line goes through the community, but Hydro One refuses to power it down to service the reserve.

– Interview report

Lack of infrastructure was noted as a direct hindrance to economic development and community development. Respondents also noted that a lack of appropriate programs at AANDC, as well as jurisdictional issues with Crown Corporations, prevents them from obtaining the required infrastructure. Participants emphasized that economic development requires adequate water and sewer services, adequate road infrastructure, and adequate power and telecommunications infrastructure.

Conclusion: Key findings and next steps

This report is grounded in the voices and experiences of First Nations leaders, whose accounts of successes and frustrations in economic development add both specificity and depth to an increasing consensus about the ongoing barriers to economic success on reserve lands and the tools necessary to achieve it. Like many previously existing studies, this project speaks to the importance of governance, leadership, and capacity in the pursuit of economic development. Further, this report echoes the report of the Royal Commission of Aboriginal Peoples in noting the importance of adequate resources and adequate access to these resources as a necessary element in economic development.

By focussing on the voices of participants, this report charts a strong narrative of first-hand experiences of economic success on reserve lands, particularly regarding the roots of this economic success, as well as the barriers faced by First Nations striving to achieve further progress. Lessons learned from the experiences of these participants provide insight into actions that First Nations and the Government of Canada can take to further unlock economic success in these and other communities and to create a more even playing field for First Nations in comparison with other jurisdictions across Canada. The following sections outline key findings.

Economic development was noted as a foundation for broader success

Interview participants asserted the importance of having a solid economic base in order to achieve broader community success. As one participant noted, "economic development is the road to independence". Leaders involved in the development of their communities often noted that the best way to build on their success was to reinvest profits in further economic development initiatives or community development efforts. By providing job opportunities, health and social services, and other cultural programs and initiatives for their communities, they reinvigorate community life.

Even highly successful First Nations note significant challenges in pursuing economic development due to barriers beyond their control

The participants in this research, who all came from economically high-performing First Nations, indicated that numerous barriers still restrict their economic development efforts due to inefficiencies in federal legislative and administrative regimes, under-resourcing of First Nations programs, and capacity deficits.

One interviewee commented, "The *Indian Act* was never meant to allow us to be part of the economy. It was meant to segregate us from society". The results of this report further substantiate the fact that the *Indian Act* and the legacy of the Canadian government's policies regarding Aboriginal peoples have resulted in a situation where First Nation communities are, in large majority, prevented from fully participating in the broader economy as a result of structural barriers underlying the current institutions that govern the administration of reserve lands.

The participating communities are succeeding with economic development despite entrenched barriers to their progress, but interviewees pointed out that they could be doing more, and achieving it more efficiently, if they were working in a more functional system.

Despite barriers, some communities have successfully used tools currently available to First Nations to enhance their economic progress...

Participants demonstrated powerfully that some degree of economic growth has been possible for their communities, despite the fact that they and other communities are impeded from becoming fully economically self-sufficient due to barriers beyond their control.

Of particular note are the multiple examples given by participants of the ways in which they have acted at the limits of – and have sometimes even exceeded – their current authorities and resources to put the factors for success in place. These examples point to areas where communities currently have tools at their disposal to work towards more positive economic outcomes, tools that could be used as a starting point for the federal government and other First Nation communities to build upon as they work towards increasing economic progress for all First Nations. Although leaders interviewed cautioned about the risks of a "one size fits all" approach, they also spoke to the importance of First Nations learning from one another's experiences and identified a number of strategies that had worked in their own communities. Such strategies include:

Enhancing their own rules and systems

- Setting in place financial accountability rules that go above and beyond the basic requirements and strive for excellence in financial management and planning.
- Setting up band governance rules in such a way as to separate politics from administration and to create transparency, credibility, and accountability to the membership.
- Putting in place community-driven land-use plans to plan proactively for future land-use development and to balance cultural and traditional values with economic development needs.

Increasing local control and decision-making powers

- Developing own-source revenues through property taxation, leasing, resource revenue sharing agreements, gaming, or other strategies to have the freedom to pursue opportunities with greater freedom than is possible with government funding.
- Working outside the *Indian Act* by assuming increased powers through available opt-in legislation such as *FNLMA*, FNFMA, or *FNCIDA*; or ignoring its provisions when they are too burdensome.
- Increasing community control of land by pursuing specific claims and self-government agreements.
- Building relationships with potential private-sector partners and municipalities to pursue projects in partnership.

Developing community capacity through both education and skills development initiatives aimed at retaining skilled members on reserve

- Building on traditions and culture through a variety of community-based initiatives.
- Supporting education and skills development initiatives for First Nations membership.
- Providing competitive job opportunities on reserve to attract and retain skilled members.
- Setting up community mentoring programs for members to develop skills and capacity.
- Providing healing and support programs to deal with the legacy of residential schools.

Leveraging land-based and other marketable assets

- Putting in place community-driven land-use plans.
- Adding to the available land base, through either Additions to Reserve or fee-simple arrangements.
- Re-establishing band control of the existing land base by buying back CP lands from CP holders.
- Concluding partnerships with nearby municipalities for shared services and infrastructure.
- Funding infrastructure enhancements through own-source revenues.

...yet the strategies identified by participating communities to influence economic outcomes may not be practical for all First Nation communities

First Nations leaders participating in this research often referenced unique assets or circumstances, such as a fortuitous location, that were pivotal to their economic development success. Participants also commented, when discussing their own success, that for other First Nations with differing circumstances and less capacity, these barriers may present significant enough hurdles to prevent them from pursuing the same strategies – and that these First Nations are at risk of being left behind.

First Nations whose remote location means that they are isolated from both accessing services and goods at competitive rates and from providing goods and services to nearby markets, will be at a disadvantage in terms of economic development opportunities. Similarly, communities with reserve lands that contain limited assets available for leveraging in economic development efforts will also be at a significant disadvantage.

Within each strategy for pursuing economic development, the ability to make decisions locally about raising and spending monies and about which projects to pursue was noted as central, as was the need to make decisions quickly at the local level without delays due to cumbersome voting requirements or waiting on the federal government for approvals. It was noted by participants that opt-in legislation provided workarounds to some of the more problematic provisions in the *Indian Act,* helping to advance the interests of First Nations and increase local control in key areas of land and financial management.

However, participants also noted that significant capacity is required to pursue these opt-in initiatives, and that even communities with existing capacity may experience lengthy wait times to enter such regimes due to funding limitations. For some communities with significantly lower capacity, the process and expertise required to become an entrant into an *Indian Act* workaround scheme may pose too significant a barrier; as such, these workarounds are not functionally available to many First Nations as an option to improve their economic development outcomes.

Participants called for the federal government to act on its levers for change to create the conditions for success in reserve land economic development

While there are significant actions that First Nations can take – and have taken – to enhance economic development opportunities in their communities, many of the levers for change still lie in the hands of the federal government. Participants cited a strong need for the federal government to address issues that continue to present barriers to economic development in First Nation communities. Unless signatory to a self-government agreement, limited power rests with First Nations governments alone to enact significant change on their reserve.

Recommendations for federal action fall into three categories:

First, build on success: Make it easier for more First Nations to take steps to put the conditions for economic success in place in their communities

- Set core funding levels such that bands can hire qualified and adequately skilled staff to run day-to-day business on the reserve.
- Address challenges associated with surveying processes.
- Create greater efficiencies in the Additions to Reserve Process.
- Re-align programs to have a more client-focussed approach to administration and to address delays in funding.
- Provide funding for opt-in legislative regimes that allows for a significantly greater number of First Nations to participate.
- Further enhance access to capital for First Nations at both the band and individual levels to assist with the development of infrastructure and own-source revenue opportunities.
- Better fund infrastructure development and maintenance in order to level the playing field between First Nations and nearby jurisdictions.
- Enhance funding to better support First Nations education.

Second, remove entrenched barriers to economic development: address systemic issues that impede all First Nations from increasing the speed and magnitude of their economic development efforts

- Ensure that the government's approach to discharging its fiduciary responsibility is not synonymous with bureaucratic complexity and risk averseness.
- Continue to address the wide variety of issues in the *Indian Act*, including jurisdictional issues, in partnership with First Nations.
- Develop flexible and opt-in policy solutions for First Nations who are ready and interested in taking on increased authority.
- Take steps to recognize First Nation authority and jurisdiction, including providing increased options for local control over local land management and providing capacity funding alongside increased authorities.
- Accelerate resolution of specific claims.
- Create environmental protection guidelines that support the maintenance of the traditional economy and preserve wildlife stocks.

Third, one size does not fit all: acknowledge the unique circumstance of individual communities, and develop flexible solutions that meet the needs of communities with capacity challenges or in less beneficial locations

- Offer flexible solutions that recognize the differing circumstances of different communities and allow First Nations to proceed at their own pace.
- Consider capacity development opportunities as an overarching objective for all federal programming.
- Work to reduce the negative effects of racism on community capacity, e.g. through broad-based education for the larger Canadian population on Aboriginal issues.
- Provide adequate funding to address lands-related issues including: contaminated reserve lands and lands that have been rendered unusable (e.g. due to flooding, etc.)

Next steps

The strategies identified in this report point to areas where First Nations have successfully acted to improve economic outcomes in their communities. However, it is evident that entrenched barriers prevent the fullest and best use of these tools for all First Nations and

that they may not be appropriate for all First Nation communities. The results of this report will be used to inform further federal government efforts in partnership with First Nations to build on success and to continue to address barriers to economic development to enable better economic outcomes for all First Nation communities.